

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

IVAN WALTER SCHALL,

Plaintiff,

v.

COMMISSIONER OF THE SOCIAL
SECURITY ADMINISTRATION,

Defendant.

Case No. 17-CV-909-JPS

ORDER

Ivan Walter Schall filed a complaint in this matter and a motion for leave to proceed *in forma pauperis*. (Docket #1 and #2). The Court may grant the plaintiff's motion to proceed *in forma pauperis* if it determines that: (1) the plaintiff is truly indigent and unable to pay the costs of commencing this action; and (2) the plaintiff's action is neither frivolous nor malicious. 28 U.S.C. §§ 1915(a), (e)(2).

As to the first requirement, the privilege to proceed without payment of costs and fees "is reserved to the many truly impoverished litigants who...would remain without legal remedy if such privilege were not afforded to them." *Brewster v. N. Am. Van Lines, Inc.*, 461 F.2d 649, 651 (7th Cir. 1972). The plaintiff's motion to proceed *in forma pauperis* demonstrates that he is indigent. (Docket #2). More precisely, the plaintiff attests in his motion that he is unemployed and has a monthly "retirement income"—presumably from social security payments—of \$1,275. *Id.* at 2. His monthly expenses, totaling \$1,450, include mortgage, utility, and credit card payments, as well as groceries, medical costs, and household expenses. *Id.* at 4-5. The plaintiff owns a vehicle worth \$1,500 and has

\$3,400 in a bank account. *Id.* at 3. He owns a home worth \$150,000, but owes \$90,000 against the mortgage on the home. *Id.* The plaintiff's expenses exceed his income. The Court is therefore satisfied that the plaintiff is indigent and cannot afford the filing fee.

The plaintiff's action also is not frivolous or malicious. The complaint includes allegations that the Administrative Law Judge ("ALJ") erred in reaching a decision. (Docket #1 at 2). If that contention is true, then the Court will be obliged to vacate the decision. Thus, the plaintiff's action is neither frivolous nor malicious.


For those reasons, the Court will grant the plaintiff's motion for leave to proceed *in forma pauperis*.

Accordingly,

IT IS ORDERED that the plaintiff's motion for leave to proceed *in forma pauperis* (Docket #2) be and the same is hereby **GRANTED**.

Dated at Milwaukee, Wisconsin, this 11th day of July, 2017.

BY THE COURT:



J.P. Stadtmueller
U.S. District Judge